STATEMENT BY

DEPUTY UNDER SECRETARY OF DEFENSE

(ACQUISITION REFORM)

MRS. COLLEEN A. PRESTON

ON

S. 946

INFORMATION TECHNOLOGY MANAGEMENT REFORM ACT OF 1995

BEFORE

COMMITTEE ON GOVERNMENT AFFAIRS

UNITED STATES SENATE

JULY 25, 1995

Mr. Chairman and members of the Committee, it is a pleasure to testify on behalf of the Department of Defense on S. 946, the Information Technology Management Reform Act.

I believe that we are all in agreement there is a pressing need to reform both the management and acquisition of information technology (IT) assets of the Federal government to include ensuring that we are effectively maximizing the use of IT as one of the many tools enabling us to reengineer the business processes of the Federal government. We in the Department of Defense strongly support these efforts, and applaud this committee for its initiative in this area. Most particularly, we wholeheartedly endorse the committee's attempt to modernize agency analyses and practices, especially the introduction of business process reengineering analysis in the use of IT.

It would not be an exaggeration to say that we could not execute virtually any of the missions given to the Department of Defense without information technology. We have recognized that it is a cost of doing business, and, our core infrastructure business processes, such as command and control, research, development, acquisition, intelligence, personnel, logistics, and finance, have been heavily supported by IT for decades. Therefore, I would like to summarize for you briefly the current structure of IT acquisition and management within DoD, describe our ongoing efforts to improve that process, and then analyze, from an agency's perspective, the provisions of S.946.

DOD INFORMATION TECHNOLOGY

Current law requires the establishment of a Senior Information Resources Management (IRM) Official in each executive branch agency. In DoD, the Assistant Secretary of Defense (Command, Control, Communications and Intelligence) (ASD(C3I)) , the Honorable Emmett Paige, Jr., serves as the DoD Senior IRM Official and reports directly to the Secretary of Defense. The duties assigned to the DoD Senior IRM official not only fulfill all of the

statutory responsibilities for the position, but also include the related defense functions of command, control, communications and intelligence. This individual supervises the extensive DoD information technology program through acquisition oversight mechanisms that are similar in many ways to those for major weapon system acquisitions.

The Senior IRM Official is also responsible for the Department-wide Corporate Information Management (CIM) initiative to provide the tools and capabilities to help improve our business processes. Overall, the functions performed by the Senior IRM Official at DoD are substantially identical to those of the proposed agency Chief Information Officer (CIO) in S.946. We believe those functions should remain in the Office of the ASD(C3I) and that it would be inappropriate to reassign those responsibilities to the Office of the Under Secretary of Defense (Acquisition and Technology).

DOD IT PROGRAM MANAGEMENT

As the principal staff assistant and advisor to the Secretary of Defense regarding all matters relating to the acquisition of information technology and the management of information resources. The ASD(C3I) formulates and ensures implementation of IRM life-cycle management and information technology acquisition policies and procedures and chairs the DoD Major Automated Information Systems Review Council (MAISRC). The Deputy Assistant Secretary (C3I Acquisition) leads the C3I Systems Overarching Integrated Product Team that supports the USD(A&T) (the “C3I Team”).

The MAISRC is the Department’s oversight and review body for major automated information systems (AIS). The MAISRC assesses the return on investment, design, development, deployment, operation, support and/or disposal (i.e., total life-cycle management) of AISs that support all DoD mission areas - including command and control.

An emphasis is placed on requiring agencies to engage in functional economic analysis (FEA), that is, what the function is, should the agency be doing it, and should it be automated. The MAISRC process is patterned on the weapon system acquisition process with appropriate differences to reflect the smaller dollar value of AISs (in comparison to many major defense systems acquisitions), the off-the-shelf nature of most of the information technology hardware acquired under AIS programs, and the fact that many AIS are developed and fielded in an evolutionary or incremental manner.

The threshold for MAISRC oversight is $100 million total program costs, $25 million program costs in a year, or $300 million life-cycle costs. Senior IRM officials of the Military Departments and the Defense Agencies oversee AISs below those thresholds, under life-cycle management policies and procedures issued by the Deputy Secretary of Defense and the ASD(C3I). Currently there are 43 DoD AISs, with an estimated aggregate life-cycle cost of over $42 billion, under review by the MAISRC. During the last 12 months, 8 AIS were added to the MAISRC oversight list.

The MAISRC was established in 1978 and has proven to be an effective forum for the oversight of the department's major AIS programs. To ensure representation by all primary stakeholders in the major AIS program under review, its members include the OSD Principal Staff Assistants who manage the functional areas supported by the AIS, i.e., the Director of Program Analysis and Evaluation; the Director for Operational Test and Evaluation; a representative from the Joint Staff; and the Senior IRM official for the AIS program subject to review.

While the MAISRC has been successful in managing many large programs, it, like almost all aspects of Defense management, is undergoing review so that it can be more responsive to the rapid pace of change in the DoD, in technology, and in international warfighting requirements. The ASD(C3I) is re-engineering the MAISRC process to make it

more efficient and effective. A number of streamlining measures are already in place. For example:

- The Secretary of Defense has mandated the use of Integrated Product Teams in the Department to ensure Office of the Secretary of Defense (OSD) staff and the program office staff work much more cooperatively to ensure program success. Early interaction between the program office and both service or agency staff/oversight officials - that is, to shift to "early insight" of pertinent officials rather than "after-the-fact oversight." This process allows for the expertise of the senior acquisition staffs to be shared with program managers as plans are being formulated, rather than grading a program manager's work after the fact or just before a milestone review. One benefit of this change is that major issues are identified and resolved early on in the process. Also, problems can be resolved while they are still small, instead of after becoming a major risk to a program's success. This concept is being implemented in the MAISRC and will ensure a joint commitment to the success of DoD's AIS programs.
- New policy directives will integrate the weapon system acquisition directives of the DoD 5000 series and the AIS acquisition directives in the 8000 series. We will streamline and merge the weapon system and AIS life-cycle management guidance while maintaining the independent nature of the MAISRC and the role of the ASD(C3I) as the milestone decision authority for major automated information systems.
- Many major AIS program review decisions will now result from staff-level reviews. This staff review will ensure that decisions can be made in a more timely fashion, with formal meetings of the MAISRC principals convened on an "as needed" basis. This empowerment of appropriate staff has required that the DoD MAISRC staff be among the best trained and most experienced in the Defense Acquisition Corps, and we have invested time and money in the training and education of this hand-picked staff.

- We are also emphasizing the importance of tailoring the oversight process to the individual characteristics and strategies of each AIS, rather than forcing a one-size-fits-all approach to oversight.

* To foster change and growth along with the desire to provide better planning, budgeting, program implementation, and program evaluation, and, in keeping with the effort to improve management practices, DoD is developing an IRM performance measurements guide. The guide will assist management planing by establishing measurable IRM program performance criteria from cradle to grave. DoD is committed to ensuring that well-defined, meaningful, measurable and useful evaluation criteria and performance measures are incorporated, as appropriate, into its strategic plans, acquisition processes, and program performance reviews.

In addition to major AISs, the Office of the ASD(C3I), through leadership of the C3I Team, maintains program oversight over the Department's management of Federal government information technology in major defense acquisition programs. There are currently 24 C3I "weapons systems," such as the Space Based Infrared (SBIR) program and the Maneuver Control System, under OASD(C3I) purview. These systems have an estimated expenditure of over $13 billion annually.

DoD has also recently implemented additional major streamlining initiatives in its oversight of these systems. The C3I Team responsible for these programs are also operating on an Integrated Product Team basis, and our initial experiences with this approach have produced successes. Decisions have been made expeditiously, without major "show-stoppers," and with dramatically reduced paperwork. For example, the former oversight process for the SBIR program would have required 180 days of OSD and Component staff review of thousands of pages of documentation. Under the redesigned, Integrated Product

Team approach , review was completed in 63 days; the single decision document from this team effort was only 47 pages long.

DOD IT ACQUISITION

The ASD(C3I) also maintains oversight and final approval authority for the procurements that provide information technology to DoD. These procurements fall into two categories: Brooks Act (that is, those subject to GSA oversight where GSA may delegate its procurement authority to the agencies) and Nunn-Warner Amendment-exempt (those critical to national security that are subject to the exclusive authority of the Secretary of Defense). While the ASD(C3I) has redelegated some of that oversight authority to the Military Services, he still conducts oversight reviews for their major acquisitions ($100 million or more during the full contract life).

Currently, there are 51 major DoD IT acquisitions under direct ASD(C3I) oversight. On June 19, 1995, GSA raised the DoD agency procurement authority threshold to $100 million per contract. The increased delegation of procurement authority (DPA) granted to the DoD on June 19 of this year will enhance DoD's ability to coordinate its IT acquisitions. All acquisitions will be reviewed to ensure compliance with a DoD-wide AIS Strategic Plan. The end result of the higher DPA threshold already granted from GSA will be more effective, efficient oversight, with more payoff in identifying opportunities to reduce risk and save money. Further, former C3I acquisition oversight staff will have more time to conduct periodic spot-checks on Component processes, procedures, and acquisitions, provide advice and training, assure compliance and obtain feedback needed to continuously improve policies.

The ASD(C3I) also maintains direct oversight of all DoD Nunn-Warner amendment-exempt acquisitions that meet the following criteria:

- have an estimated cost, actual cost or maximum order limitation of $100 million or more during the full contract life;

- have a cost of $25 million or more in a single year; or

-are designated as being of special interest by the Department.

In the last calendar year, ODASD(C3I)) has reviewed 18 Nunn-Warner-exempt acquisitions with a total estimated value of $4.65 billion. They expect to review an additional 3 Nunn-Warner amendment-exempt acquisitions from the Navy during this fiscal year. For future Nunn-Warner amendment-exempt acquisitions, each DoD component will be required to provide to the ASD(C3I), 45 days prior to release of the request for proposal or contract award, a detailed synopsis of the proposed acquisition. OASD(C3I) review will focus on the early identification of areas of concern and appropriate management actions to address identified deficiencies. Through this oversight , the Department will ensure that future Nunn-Warner-exempt acquisitions are acquired (1) in a cost-effective manner consistent with sound capital investment planning and (2) when the requirement for these IT resources supports the Department's mission requirements.

DOD INFORMATION MANAGEMENT

Defense Information Management activities are led by the ASD(C3I) but are the responsibility of the managers of each functional area of the Department. It is the policy of the DoD that functional management is held accountable for all benefits and all directly controllable costs of developing and operating their information systems.

DoD’s information management policies are the outgrowth of its Corporate Information Management (CIM) initiative. The CIM initiative has been underway in the Department of Defense since late 1989. This is a long-term initiative to bring procedural and cultural changes

in all Defense business areas. The underlying premise of CIM is Business Process Re-engineering. Information systems and data are supportive of more efficient and effective mission accomplishment and management.

Business process re-engineering (BPR) seeks to move away from traditional, accepted ways of doing business to streamlined, more effective and efficient methods. While some BPR results can be found and implemented rapidly, large scale BPR projects can take years to complete.

It has been the experience of the DoD that, while information technology investments can produce the greatest benefits in overall function performance when made as the result of BPR studies, these studies may take years. In the mean time, DoD must achieve any and all incremental savings that may be available. Concurrently with its BPR efforts, DoD is pursuing reducing its number of data processing centers from 59 to 16, determining standard data elements, eliminating legacy information systems, and moving to an open systems environment. DoD is also aggressively attacking its software base through a Software Management Initiative, jointly led by the ASD(C3I) and the Principal Deputy Under Secretary of Defense (Acquisition and Technology).

The interweaving of DoD's information systems has necessitated special attention to data standardization and systems architectures. For example, most of the data in DoD financial systems comes from outside the financial community (such as from contracting or personnel). Data is being addressed a Defense-wide issue that must be solved to gain full benefit from the systems to support re-engineered business processes.

It is in this context - the context of an advanced, sophisticated agency system of IT oversight that encourages business process reengineering and requires capital investment planning - that we address our comments regarding S. 946.

THE BROOKS ACT REPEAL

First, we wholeheartedly endorse the proposed repeal of the Brooks Act, with the caveat that some centralized administrative oversight within the executive branch remains appropriate in limited, defined circumstances. Generally, however, this repeal is long overdue. Enacted in 1965, the Brooks Act grants the General Services Administration (GSA) the authority to coordinate and provide for the purchase, lease, and maintenance of automatic data processing equipment (referred to here as IT) and related services for federal agencies. While GSA delegates that authority, to varying degrees, to the individual agencies, it still retains extensive managerial oversight of this acquisition process. GSA fulfills its oversight responsibilities under the Brooks Act by performing Information Resources Management (IRM) reviews. In its IRM review program, GSA conducts comprehensive information resources procurement and management review of federal agencies, including the Department of Defense. The IRM reviews include assessment of pre-acquisition studies, procurement and contracting practices, oversight of acquisition activities, internal delegations of procurement authority and specific agency delegation requests.

The Brooks Act was designed for the era of centralized ADPE processing services, reutilization of large computer systems and centralized collection of ADPE management information. These basic premises are antiquated in today's commercial microcomputer environment, where decentralization is the watchword. Also, individual agencies have at times

been able to achieve greater economies of scale than GSA when purchasing IT on their own. This conclusion is true with respect to all federal agencies, but is particularly true of DoD, the federal sector's largest single IT purchaser

In addition, as I have described, under the Nunn-Warner Amendment, the Department of Defense components have developed their own internal mechanisms for IT procurement. The overlap between the agency structures and the GSA review process has created a confusing hierarchy for IT procurement, one that is complicated by the statutory exemption in the Nunn-Warner Amendment and by the legal issues surrounding the definition of IT under the Brooks Act. Significant delays are also associated with GSA oversight of IT procurement, and this oversight has spawned overlapping, and arguably unnecessary, layers of bureaucracy.

The Brooks Act also grants the General Services Administration Board of Contract Appeals (GSBCA) the authority to consider bid protests for IT procurements. The bid protest process that has been created under this authority also weighs in favor of repeal of the Brooks Act. Currently, the GSBCA reviews protests with virtually no limits on the evidence that protesters are able to present to the Board. Protesters are allowed to introduce, and agencies are required to defend their decisions, in light of evidence beyond that contained in the agency's file, even if such evidence was never brought to the attention of the agency nor available to the contracting officer at the time the decision was made. This review is both costly and labor intensive. Suggestions to reform the IT protest process made in a recent report by this Committee Chairman (see Computer Chaos: Billions Wasted Buying Federal Computer Systems, Investigative Report of Senator William S. Cohen, October 12, 1994) call into question the benefits of subjecting a deliberative decision by the agency to review based on a new record hastily created in an adversarial proceeding.

Furthermore, the GSBCA reviews government decisions *de novo* and, unlike review of agency actions in other fora, gives little if any deference to the government action. This "second guessing" standard of review is extremely detrimental to the exercise of sound judgment by a contracting officer, particularly where an award is intended to be based on a "best value" determination where the government may be prioritizing value other than lowest price.

The DoD supports a standard of review that would require that the board uphold a protest only if the disappointed bidder is prejudiced and either (I) that the decision was obtained in violation of procedures required by law or regulation, or (ii) that the decision was arbitrary or capricious. The National Performance Review has endorsed this type of review because it holds decision makers accountable for their actions, without curtailing innovation and creativity through a fear of being second-guessed. It would also help to avoid the type of wasteful effort on protest avoidance (extensive agency documentation and quantification of decision-making process) that the Senate report found was occurring in IT acquisitions. For these reasons as well, we strongly endorse repeal of the Brooks Act.

OMB AS CIO

We understand that the intent of the drafters of this legislation was to afford DoD a virtual exemption from its provisions. Nonetheless, because we are unsure whether the language accomplishes that goal, we would like to comment generally on the structure that would be created by this bill.

For many of the same reasons that we believe the Brooks Act no longer serves a valid purpose, the Department of Defense also strongly opposes the establishment of any new, centralized bureaucracy to oversee federal sector IT procurement, as is proposed by this bill.

The purposes of the proposed legislation will not be met by this new bureaucracy. Instead, there will merely be another layer of bureaucracy introduced at the same time as agencies are seeking improved, more streamlined IT acquisition procedures.

The critical factor is the type of review engaged in by the agencies as they acquire and manage IT resources. Changing, and improving, agency analyses (including some centralized technical review where appropriate) can be accomplished without introduction of a new bureaucracy. Centralized oversight within the executive branch should occur only when it will facilitate:

(1) common infrastructure economies within the government,

(2) enhanced technical review in cases where the agency cannot provide that review itself, or (3) improved business process reengineering and capital investment planning by the agencies themselves.

We **do** support, however, the intent of the bill to generate these types of improvements in federal sector IT acquisition and management. Indeed, the proposed required analyses mirrors that which the DoD has implemented on its own initiative, with demonstrated success. For example, using business process reengineering, the medical logistics area - which provides the commodities necessary to the operation of DoD medical facilities in both peace and war - has generated a one time inventory cost reduction of $96 million and an expected 12 year savings of $1.1 billion. In addition, the Strategic Warfare Planning System, a joint service nuclear war planning system designed to respond rapidly to changing military scenarios - used up front business process reengineering to lead to a reduction in planning cycle time from 18 months to 6 months.

However, the bill would specify that numerous actions and studies must be completed "before" the application of any information technology. A reasonable balance needs to be allowed between re-engineering and information technology investments with rapid payoffs or

incremental process improvement. The Federal government needs to garner savings as they become available. Economies that can be achieved within the framework of a re-engineered information technology environment, must be pursued.

Specific features of the proposed OMB structure that are troublesome to us include:

Mandatory Termination

- The mandatory termination proposal is strongly opposed by DoD. No one would disagree that failure to reach 50% of the target performance, or exceeding the schedule or cost on a program by 50% is a problem in any program that must be addressed, and that agencies should do a better job of attempting to react to perturbations in the program that cause such conditions, e.g., a decision by Congress to stretch out the program, failure of a contractor to meet ambitious technology challenges, or gross inaccuracies in the estimates of schedule or cost.
- Estimating the cost and schedule of any information technology program is inexact at best. This problem pertains to industry and government alike. It is not reasonable to mandate strict adherence to inexact estimates, and legislation requiring termination of IT programs that breach these thresholds is not the answer. Mandating termination is a draconian measure that eliminates any flexibility within the agency to make the best management decisions on how to proceed. Agency senior leadership, when confronted with such a situation, must assess the value of the program's potential capability against the need to meet established program goals.
- The bill's provisions on strict adherence to initial cost and schedule estimates promotes the "grand design" philosophy of system development, in which deviations from initial designs are seen as anomalies rather than assets. The "grand design" philosophy has been demonstrated as rigid and unable to respond to changing mission requirements and

technology advances. Rather than rewarding system flexibility, this section, instead, discourages it. Any program that does not undergo appropriate change will not satisfy user needs. The program may meet exactly the initial requirements, be under the original cost, and come in ahead of the original schedule, but be useless if the mission has been changed.

Information Technology Budget Adjustments

- Decrementing agency information technology accounts, as proposed by the bill, will prevent the Federal agencies from being able to implement process improvements that involve information technology. While the bill recognizes that the bulk of the savings accrued from IT investments will be in areas outside the information technology arena, the bill does not promote the use of information technologies that will enable these savings.
- Funding the Innovation Loan Account
- Levying five per cent (5%) of the total amount available for an agency's information resources would effectively constitute a transfer of funding from each executive agency to other government entities. This levy severely penalizes any agency if a high percentage of the agency's budget is devoted to information resources. Also, the amount that the agency could reasonably expect to receive in "loans" may be quite limited since their projects may not have a wide range of coverage when compared to the Federal government in its entirety. Therefore, the amount of savings and benefits may have a limited area of coverage. These benefits may be greatly important to our nation, even though their dollar size may be small. In the case of small but high-qualitative-value benefits, an agency would not be able to recover its investment funds. The Act indicates that. although an agency can borrow funds from the Innovation Loan Account to finance productivity savings measures, 50 percent of the funds borrowed for these efforts must be repaid to the account. This eliminates much of the capability of

any executive agency to recoup the amount of money it invests in the Innovation Loan Account.

- The way the innovation fund is established, it penalizes agencies that have had the foresight to plan, program and budget for their information technology programs. Agencies who have underbudgeted and have not planned their programs adequately would benefit by having lower reductions in their information technology budgets, but be able to draw larger amounts from the common use account. Thus, the funding mechanism works against good information technology management. The funding mechanism does not recognize that federal agencies may already be contributing to the development, operation and maintenance of information technology infrastructure components that are commonly used by multiple agencies. The funding of the common use account would thus reduce agencies' ability to support components that provide economies of scale in providing information technology capabilities.

Mandatory Annual IT Budget Reductions and Agency Operations Increases

- Mandatory annual reductions in operations and maintenance will reduce the ability of the Federal government to perform its functions. For information technology programs, generally about 60 percent of the funding over the program's software life cycle is for maintenance. The textbook definition of "maintenance" generally includes the correction of errors, upgrades to respond to technology changes, and changes to computer programs that are necessary to keep up with mission needs and current laws. Maintenance is the lifeblood of information technology programs. Also, with more use of evolutionary and incremental development approaches, which are more reliable and more responsive to mission needs, a greater portion of system work may be categorized as "maintenance" under the above definition.

Mandated 5 percent annual improvement in agency operation

- The requirement for a 5% annual improvement in agency operation, achieved solely through information technology, is not consistent with experience and common sense. This requirement makes it appear that technology alone can make a difference in agency operation. It also the exaggerates the effect that the information technology alone can have on agency operations. It is the restructuring of agencies' work and the re-engineering of business processes that provide the bulk of improvements in agency operations.

NATIONAL SECURITY AND THE NUNN-WARNER AMENDMENT

The Department of Defense would strongly oppose any dilution of the authority granted to the DoD by the Nunn-Warner Amendment (10 U.S.C. 2315) as called for in Section 811 of the bill. We recognize the bill would provide a revocable delegation of authority in IT management and acquisition to DoD (as well as to the CIA). We understand from staff communications that the intent of this provision is in fact to broaden the authority DoD has over its IT, that is, that the delegation would be revoked by the OMB CIO only in the most extreme situations. However, neither that criteria, nor any other, is set forth in the bill as a proposed statutory standard for when the delegation could be revoked. Therefore, it appears that the bill language may not fully accomplish your intended result. We believe that the bill not only does not provide the DoD with broader authority over its IT management, but also does not provide the DoD with the same scope of existing authority it has by virtue of the Nunn-Warner Amendment.

DoD does not support any legislative initiative that would dilute its existing, exclusive authority (subject, of course, to normal OMB budget review constraints) under the Nunn-Warner Amendment, to manage mission critical and intelligence related IT. Dilution of the

Nunn-Warner Amendment would significantly decrease the ability of the Secretary of Defense to acquire and manage information technology that is critical to the national defense.

The Nunn-Warner Amendment grants the Department of Defense exclusive authority to acquire the following resources, without first obtaining a Delegation of Procurement Authority from General Services Administration: Information technology that

(1) Involve intelligence activities

(2) Cryptologic activities related to national security

(3) Command and control of military forces

(4) Equipment which is integral to a weapon or weapon system

(5) Critical to the direct fulfillment of military or intelligence missions which does not apply to use in administrative and business applications.

This exclusive authority must continue to exist even if S. 946 is enacted and the OMB becomes the CIO of the federal sector.

Congress has recognized that information "[s]ystems involving intelligence activities, cryptologic activities related to national security, direct command and control of military forces [and] equipment that is integral to a weapons system or direct fulfillment of military or intelligence missions" are "highly specialized in their functions" and consequently "have been traditionally exempted from government-wide standards and regulations applying to general purpose computer systems." [reference: H.R. Rep. No. 100-153 (i), 100th Cong., 1st sess. 25 (1987), reprinted in 1987 u.s.c.c.a.n. 3120, 3140]. Congress has codified this "traditional exempt[ion]" in a set of legislative provisions collectively referred to as the Nunn-"Warner amendment" [reference: see 10 U.S.C. § 2315; 15 U.S.C. § 278g-3 (a) (3); 40 U.S.C § 759 (a) (3) (c); 44 U.S.C. § 3502 (2)] to the Brooks Act.

Systems that DoD determines to be Nunn-Warner Amendment exempt are crucial or indispensable to specific military or intelligence missions; e.g., security systems which prevent terrorist attacks on nuclear weapon systems. These Nunn-Warner Amendment systems are more "highly specialized," complex and sensitive today than they were when the amendment was first enacted.

The acquisition and management of national security-related information technology requires an understanding of the national security programs and goals that it supports as well as the hardware, software and other technical specifications needed for it that addresses those programs and goals. This expertise resides within the Department of Defense. The Nunn-Warner Amendment authority is "not broken" and has done exactly what Congress intended: provided our national security apparatus with rapidly obtained state-of-the art technology that allows the U.S. to deter or defeat any potential aggressor. We urge in the strongest terms continued maintenance within DoD of the authority to manage and oversee information technology systems for national security, as now defined by the Nunn-Warner Amendment.

MODULAR/INCREMENTAL ACQUISITION

DoD supports generally the concept of incremental, modular acquisition (as authorized in Sec. 203 of the bill) as a useful, even preferred, model in IT acquisition, but we would not require it's usage, as this bill does, Rather, we would authorize it as a type of acquisition procedure available at the discretion of the contracting officer.

We also support authority to use a type of two-phase selection procedures (sec. 208). The Department of Defense generally supports the concept of permitting some discretionary downselecting of the pool of offerors as a type of competitive procedure. However, we would not limit this procedure to IT or to only those contract situations where substantial design work

must be performed and expenses incurred to prepare offers. Rather, a broader statement of this authority should be made that has applicability to IT and a range of other types of procurements.

DoD generally supports the direction of the authority proposed in Section 204 to permit agencies to limit the size of the competitive range. Currently, after initially evaluating each offeror's proposal, agencies, according to General Accounting Office (GAO) and General Services Administration Board of Contract Appeals (GSBCA) decisions, must look for the "natural break" in making a competitive range determination. If there is any question as to whether an offeror should be included in the competitive range, the offeror is kept in the competitive range. The result is that agencies generally will not leave any offeror out of the competitive range unless that offeror clearly has no chance whatsoever of being awarded the contract. This is particularly so given the likelihood of protest.

The proposed authority is useful to address this problem. However, DoD would support more explicit authority to allow agencies to limit the number of offerors in the competitive range to three when the contracting officer determines that it is warranted by considerations of efficiency. In addition to enabling agencies to expedite the procurement process, limiting the size of the competitive range will allow offerors that do not have a real chance of receiving award to save time and money by being removed sooner rather than later.

Mandatory cancellation of a solicitation or termination of award, as also required by the bill, are not useful methods of ensuring that the latest technologies are obtained by the government, and may simply deter vendors who are able to provide such technologies from government business. Also, the use of mandatory contract sources for the acquisition of commercial items will unduly limit the availability of such items in IT systems. Such provisions needlessly limit our range of procurement methods and ignore the concept of best value. (Section 203 would also require an agency, when procuring a commercial item used in the

development of an information system or otherwise being acquired for an executive agency, to use a multiple award schedule contract, a task or delivery order contract, or a federal government on-line purchasing network established by the CIO of the U.S.)

Further, we do not support those provisions in the bill (sections 201; 202) that would require OMB to develop procurement procedures for different classes of IT acquisitions (defined monetarily), and would require quantifiable measures for making benefit/risk analyses, including evaluation of the value of the investment to the agency mission. There is no continued need for separate, complex, IT procurement regulations, particularly in this era of acquisition streamlining. With the repeal of the Brooks Act, the Federal Information Resources Management Regulation could be eliminated. IT could be procured using available procedures in the FAR and the Defense FAR Supplement. IT procurements will benefit from the FAR provisions developed in response to the Federal Acquisition Streamlining Act of 1994 (FASA) including creation of a micro-purchases threshold, simplified acquisition threshold, and enhanced procedures for buying commercial items. Should unique FAR provisions for IT procurements be deemed necessary, they should be developed using the existing structure for developing FAR regulations. In addition, there is little benefit to arbitrary monetary procedural differentiation among IT acquisitions, with no regard to other aspects of the acquisition.

The Department of Defense does support a TINA exception for all commercial items, including those that are IT systems(as proposed in Sec. 205). We oppose, however, a requirement (Sec. 206) to use full and open competition for every procurement of commercial off-the-shelf IT items. Rather, we endorse the type of approach utilized in H.R. 1670, as introduced by Representative Clinger. There, the bill would authorize use of simplified procedures for commercial items. A requirement for full and open competition, without exception, is unreasonable. IT procurements should follow the same competition

requirements in Title 10 as other DoD procurements. Section 206, however, also requires a FASA-like list in the FAR of provisions of law that are inapplicable to contracts for the procurement of commercial, off-the-shelf IT items. We support this aspect of the proposal.

We question the requirement (sec. 207) that at least 2 task or delivery order contracts be awarded for the same or similar IT services or property. For other than contract advisory and assistance services, FASA created a preference for multiple award task and delivery order contracts. Several exceptions to multiple awards were established, including contracts with an estimated value of less than the simplified acquisition threshold, and cases where the contracting officer determined that multiple awards were not in the best interests of the United States. The flexible FASA approach should be retained for all procurements including IT.

We find similarly inflexible the proposal for a mandatory contract clause (sec. 209) in all cost type IT contracts requiring a system to reward a contractor when cost, schedule or performance goals are exceeded or penalizing the contractor when they are not adhered to. The FAR permits contracting officers, exercising sound business judgment, to include positive and negative cost, schedule, and/or performance incentives in fixed-price and cost-reimbursement contracts. Incentive contracts must be carefully structured in order to effectively motivate the contractor's pursuit of the desired cost and technical outcome. The additional provision mandated by this provision is unnecessary in incentive contracts, which are by definition designed to reward superior and penalize inferior performance. For those cost-type contracts that otherwise contain no incentive clause, this proposed provision mandates that they be converted to incentive contracts. The Department of Defense is opposed to a "one size fits all" approach to contract incentives via a standard clause.

INCENTIVES/DISINCENTIVES FOR PROGRAM MANAGEMENT

Section 507 of the bill would require the Secretary of Defense to establish an enhanced system of incentives unique to IT acquisition. The Department of Defense has a number of on-going actions to identify incentives for performance by program managers, program executive officers, and their teams. DoD also supports the use of pay bands, as demonstrated in the China Lake experiment. As an example, DoD is considering, as part of its implementation of section 5001 of Public Law 103-355, the Federal Acquisition Streamlining Act of 1994, options to expand the use of pay banding. And, we understand that the National Performance Review will soon be proposing comprehensive civil service reform legislation that will make pay banding available throughout the government. We will continue to examine all options under this legislative direction, including examining analogous commercial practices. Not all of these incentives, however, will involve pay and promotions.

Program managers are charged with the effective and efficient use of the resources they are provided, but they seldom have control over the resources they receive. For example, the attainment of cost goals is largely dependent on stable funding. Everyone from the Program Executive Officer to Congress has the ability to make perturbations in program funding and make attainment of the previously defined cost goals impossible. Likewise, the attainment of performance goals is largely a function of the level of technology growth being pursued and the contractor's ability to translate technology into a system. Again, both of these elements of program funding and technology growth are largely outside the program manager's control.

The attainment of schedule goals is largely dependent on authorizations and appropriations levels, stability of funding, and the contractor's ability to meet technology

challenges. Many outside factors that affect the success or failure of a program that the program manager or Program Executive Officer cannot control; thus, it is virtually impossible to judge how well a program manager or PEO manages based solely on the cost, schedule, and performance goals, without consideration of the many external factors that may affect program accomplishment . The worst performance incentive to adopt is one that is largely outside the individual's ability to control.

In addition, a band of target goal plus or minus 10 percent is very narrow considering the complexity and state-of-the-art technologies being pursued in DoD. Further, this narrow band restricts the tradeoff of cost, schedule, and performance to achieve best value. Finally, the proposed legislation appears to be endorsing the creation of "point estimate" goals. Such goals are hard to define early in the life of a program and do not allow for the trade-off of cost, schedule, or performance goals that is necessary over the life of a program. The use of such goals does not encourage the application of innovative techniques that are identified in the course of program development. DoD uses both an objective and a threshold in establishing its goals for acquisition program baselines (under 10 U.S.C. 2435).

The proposed unfavorable personnel actions to be taken if a system exceeds cost or schedule goals by 10 percent or fails to achieve at least 90 percent of performance goals could have the effect of making program managers even more risk adverse, rather than, as most highly successful corporations are attempting, establishing an environment of managing reasonable risks. This outcome would tend to lengthen acquisition cycles and increase cost, just the opposite of what is intended in the bill. This type of punitive action will discourage talented, experienced, educated personnel from pursuing work in acquisition program management, and will instead steer them toward jobs with more stable and consistent income levels.

Making pay and promotion incentives or disincentives work will require significant changes in the current military pay and civilian personnel systems. Today, military personnel can only be paid for purposes authorized by statute. Except for suggestion awards, those purposes apply equally to everyone with similar circumstances (e.g., aviators, submariners, recruits with certain desired skills). The proposed provision does not change Title 10 to authorize payment of incentives to military program managers as well as civilian program managers, and DoD will not support any pay or performance incentives that cannot be equally applied to high performing military and civilian members of the acquisition workforce. Also, civilian grades are based on a specific position, not given to the person holding that position. Promoting a civilian based on performance will make the person, not the position, have a grade (much like military rank).

In order for pay incentives to work, they must be adequately funded. There is no indication in the proposed legislation that DoD will receive additional funding to pay the kind of bonuses that will encourage good performance.

SUMMARY

The intended goal of S.946 is highly commendable. The repeal of the Brooks Act is long overdue, and many of the other provisions of the bill are extremely useful, particularly those that would require agencies and the federal sector overall to make more effective use of business process reengineering in IT acquisition and management. However, the fundamental provision of the bill - the establishment of a centralized, OMB bureaucracy through which agencies can procure most IT systems - is not conducive to improving the operations of the Department of Defense and improving national security. It would replace one information technology acquisition bureaucracy with another, which may be more detailed and lengthy. Moreover, although we recognize the intent of the bill was otherwise, the bill has

potentially jeopardized national defense information security by moving overarching responsibilities from the National Security Agency to OMB and apparently diluting the Nunn-Warner Exemption authority DoD currently maintains. We welcome the opportunity to work with the Committee to develop a proposal that may more fully meet the Committee's intent in this area.

DoD appreciates the boldness of the Committee in proposing solutions to information technology management problems that have plagued the Federal government for many years. Where there are differences of opinion on implementation procedures, the Department would like to contribute to their resolution.

I would like to thank the Committee for the opportunity to appear today and state the Department's unequivocal willingness to work with the Committee to improve federal sector information technology management.